

# HOUSE BILL No. 1428

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10.3-7; IC 21-6.1-4-6.1.

**Synopsis:** Public pensions. Provides that an employee of a school corporation who is not a member of the Indiana state teachers' retirement fund (TRF) shall be a member of the public employees' retirement fund, regardless of the number of hours the employee works during a year. Provides that a member of TRF who retires after June 30, 2001, and who serves on active duty in the armed services of the United States for at least six months is entitled to up to six years of service credit for the time served on active duty, to the extent that service credit is not granted for that time under existing TRF provisions concerning military service credit. Requires a member to have at least 10 years of creditable service in TRF before the member may claim the military service credit.

**Effective:** July 1, 2001.

### Bodiker

January 11, 2001, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1428

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A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-10.3-7-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) This section does  
3 not apply to:  
4 (1) members of the general assembly; or  
5 (2) employees covered by section 3 of this chapter.  
6 (b) An employee of the state or of a participating political  
7 subdivision who:  
8 (1) became a full-time employee of the state or of a participating  
9 political subdivision in a covered position; and  
10 (2) had not become a member of the fund;  
11 before April 1, 1988, shall on April 1, 1988, become a member of the  
12 fund unless the employee is excluded from membership under section  
13 2 of this chapter.  
14 (c) Any individual who becomes a full-time employee of the state  
15 or of a participating political subdivision in a covered position after  
16 March 31, 1988, becomes a member of the fund on the date the  
17 individual's employment begins unless the individual is excluded from

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membership under section 2 of this chapter.

(d) For the purposes of this section, "employees of the state" includes:

- (1) employees of the judicial circuits whose compensation is paid from state funds;
- (2) elected and appointed state officers;
- (3) prosecuting attorneys and deputy prosecuting attorneys of the judicial circuits, whose compensation is paid in whole or in part from state funds, including participants in the prosecuting attorneys retirement fund established under IC 33-14-9;
- (4) employees in the classified service;
- (5) employees of any state department, institution, board, commission, office, agency, court, or division of state government receiving state appropriations and having the authority to certify payrolls from appropriations or from a trust fund held by the treasurer of state or by any department;
- (6) employees of any state agency which is a body politic and corporate;
- (7) employees of the board of trustees of the public employees' retirement fund;
- (8) persons who:
  - (A) are employed by the state;
  - (B) have been classified as federal employees by the Secretary of Agriculture of the United States; and
  - (C) are excluded from coverage as federal employees by the federal Social Security program under 42 U.S.C. 410; and
- (9) the directors and employees of county offices of family and children.

**(e) An employee of a school corporation who is not a member of the Indiana state teachers' retirement fund under IC 21-6.1-4 shall become a member of the fund.**

SECTION 2. IC 5-10.3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The following employees may not be members of the fund:

- (1) Officials of a political subdivision elected by vote of the people, unless the governing body specifically provides for the participation of locally elected officials.
- (2) Employees occupying positions normally requiring performance of service of less than six hundred (600) hours during a year who ~~(A) were hired before July 1, 1982. or (B) are employed by a participating school corporation.~~
- (3) Independent contractors or officers or employees paid wholly



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on a fee basis.

(4) Employees who occupy positions that are covered by other pension or retirement funds or plans, maintained in whole or in part by appropriations by the state or a political subdivision, except:

(A) the federal Social Security program; and

(B) the prosecuting attorneys retirement fund created by IC 33-14-9.

(5) Managers or employees of a license branch of the bureau of motor vehicles commission, except those persons who may be included as members under IC 9-16-4.

(6) Employees ~~except employees of a participating school corporation, hired after June 30, 1982,~~ occupying positions normally requiring performance of service of less than one thousand (1,000) hours during a year.

(7) Persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are covered by the federal Social Security program as federal employees under 42 U.S.C. 410.

(8) Members and employees of the state lottery commission.

SECTION 3. IC 5-10.3-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Members of the general assembly, including members who:

(1) completed their service before July 1, 1987; and

(2) were not members of the fund during their service in the general assembly;

are entitled to become, at their option, members of the fund. A member of the general assembly who completed his service before July 1, 1987, in order to become a member of the fund must apply to the board for membership and must present evidence satisfactory to the board of his prior service. Such a member of the general assembly may become a member without any service after June 30, 1987.

(b) Notwithstanding the exclusion specified in section 2(4) of this chapter, a member of the general assembly who is a member of the Indiana state teachers' retirement fund and who retires after June 30, 1980, may choose at his retirement date to become a member of the public employees' retirement fund and to receive his retirement benefit from the fund.

(c) An employee who

(+) was hired before July 1, 1982, or

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1           ~~(2) is employed by a participating school corporation;~~  
 2           and who is occupying a position normally requiring performance of  
 3           services of less than one thousand (1,000) hours a year may at his  
 4           option be a member of the fund.

5           SECTION 4. IC 21-6.1-4-6.1 IS AMENDED TO READ AS  
 6           FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6.1. (a) This subsection  
 7           applies to members who retire before July 1, 1980. A member who had  
 8           completed four (4) years of approved college teacher training before  
 9           voluntary or involuntary induction into the military services is entitled  
 10          to credit for that service as if the member had begun teaching before  
 11          the induction. A member who serves in military service is considered  
 12          a teacher and is entitled to the benefits of the fund if for or during the  
 13          leave of absence the member pays into the fund the member's  
 14          contributions. Time served by a member in military service for the  
 15          duration of the hostilities or for the length of active service in the  
 16          hostilities and the necessary demobilization time after the hostilities is  
 17          not subject to the one-seventh rule specified in section 5 of this chapter.

18          (b) This subsection applies to members who retire after June 30,  
 19          1980. A member who had completed four (4) years of approved college  
 20          teacher training before voluntary or involuntary induction into military  
 21          service is entitled to credit for the member's active military service as  
 22          if the member had begun teaching before the induction. A member who  
 23          serves in military service is considered a teacher and is entitled to the  
 24          benefits of the fund if:

- 25           (1) the member has an honorable discharge; and
- 26           (2) except as provided in subsection (f), the member returns to
- 27           active teaching service within eighteen (18) months after the
- 28           completion of active military service.

29          The time served by a member in military service for the duration of the  
 30          hostilities or for the length of active service in the hostilities and the  
 31          necessary demobilization time after the hostilities is not subject to the  
 32          one-seventh rule specified in section 5 of this chapter. However, not  
 33          more than six (6) years of military service credit may be granted under  
 34          this subsection. In order to be eligible for any military service credit  
 35          under this subsection, a member must have at least ten (10) years of  
 36          in-state service credit.

37          (c) This subsection applies to members who retire after May 1,  
 38          1989. A member who had begun but had not completed four (4) years  
 39          of approved college teacher training before voluntary or involuntary  
 40          induction into the military services is entitled to service credit in an  
 41          amount equal to the duration of the member's active military service if  
 42          the following conditions are met:

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(1) The member has an honorable discharge.

(2) Except as provided in subsection (f), the member returns to a four (4) year approved college teacher training program within eighteen (18) months after the completion of active military service and subsequently completes that program.

(3) The member has at least ten (10) years of in-state service credit.

(d) This subsection applies to members who retire after May 1, 1991, and who are employed at state institutions of higher education. A member who had begun but had not completed baccalaureate or post-baccalaureate training before voluntary or involuntary induction into military service is entitled to the member's active military service credit for the member's active military service in an amount equal to the duration of the member's military service if the following conditions are met:

(1) The member received an honorable discharge.

(2) Except as provided in subsection (f), the member returns to baccalaureate or post-baccalaureate training within eighteen (18) months after completion of active military service and subsequently completes that training.

(3) The member has at least ten (10) years of in-state service credit.

(e) The maximum amount of service credit that may be granted to a member who meets the conditions of subsection (c) or (d) is six (6) years. However, for purposes of subsection (c) or (d), the time served by the member in active military service for the length of active service in hostilities and necessary demobilization is not subject to the one-seventh rule specified in section 5 of this chapter.

(f) The board shall extend the eighteen (18) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher training program within eighteen (18) months after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(g) If a member retires, and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (f), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a

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1 recomputation of benefits received before the date of the board's  
2 determination.

3 (h) Notwithstanding any provision of this section, a member is  
4 entitled to military service credit and benefits in the amount and to the  
5 extent required by the Uniformed Services Employment and  
6 Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later  
7 amendments.

8 (i) **Notwithstanding any other provision of this section, a**  
9 **member who:**

10 (1) **retires after June 30, 2001;**

11 (2) **serves on active duty in the military service of the United**  
12 **States for at least six (6) months; and**

13 (3) **receives an honorable discharge from the military service;**  
14 **is entitled to service credit for the time served on active duty in the**  
15 **military service. However, a member is entitled to service credit**  
16 **under this subsection only to the extent that service credit is not**  
17 **granted for that time under another provision of this section. The**  
18 **maximum amount of service credit that may be granted to a**  
19 **member under this subsection is six (6) years. A member must have**  
20 **at least ten (10) years of creditable service in the fund before the**  
21 **member may claim service credit under this subsection.**

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